

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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LARRY FREUDENBERG, Individually and  
on Behalf of All Others Similarly Situated,

Plaintiff,

-against-

E\*TRADE FINANCIAL CORPORATION,  
MITCHELL H. CAPLAN and ROBERT J.  
SIMMONS,

Defendants.

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Civil Action No. 07-8538-RWS

(caption continued on next page)

**DECLARATION OF JAMES M. HUGHES IN FURTHER SUPPORT  
OF SKANDIA LIFE INSURANCE COMPANY LTD.'S MOTION FOR  
CONSOLIDATION, APPOINTMENT AS LEAD PLAINTIFF, AND APPROVAL OF ITS  
SELECTION OF COUNSEL, AND IN OPPOSITION TO COMPETING MOTIONS**

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WILLIAM BOSTON, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

-against-

E\*TRADE FINANCIAL CORPORATION,  
MITCHELL H. CAPLAN and ROBERT J.  
SIMMONS,

Defendants.

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Civil Action No. 07-8808-RWS

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ROBERT D. THULMAN, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

-against-

E\*TRADE FINANCIAL CORPORATION,  
MITCHELL H. CAPLAN and ROBERT J.  
SIMMONS,

Defendants.

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Civil Action No. 07-9651-RWS

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WENDY M. DAVIDSON, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

-against-

E\*TRADE FINANCIAL CORPORATION,  
MITCHELL H. CAPLAN and ROBERT J.  
SIMMONS,

Defendants.

---

Civil Action No. 07-10400-UA

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JOSHUA FERENC, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

-against-

E\*TRADE FINANCIAL CORPORATION,  
MITCHELL H. CAPLAN, AND ROBERT J.  
SIMMONS,

Defendants.

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Civil Action No. 07-10540-SHS

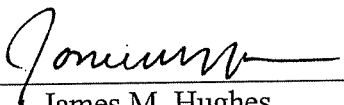
James M. Hughes declares under penalty of perjury this 20th day of December, 2007:

1. I am Senior Counsel of the law firm of Motley Rice LLC. I submit this Declaration in further support of the Motion of Skandia Life Insurance Company Ltd. ("Skandia") for Consolidation, Appointment as Lead Plaintiff, and Approval of Its Selection of Counsel, and in opposition to competing motions.

2. Attached hereto as Exhibit A is a true and correct copy of the article Aaron Lucchetti, A New Mortgage 'Cop'; Dann, Ex-Footballer, Tackles Fraud Cases, Targets Wall Street, Wall Street Journal, Oct. 8, 2007, at C1.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 19, 2007.

  
James M. Hughes

# EXHIBIT A



# THE WALL STREET JOURNAL. ONLINE

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## A New Mortgage 'Cop'

**Dann, Ex-Footballer,  
Tackles Fraud Cases,  
Targets Wall Street**

By AARON LUCCHETTI  
October 8, 2007; Page C1

One of the sharpest attacks on Wall Street these days is coming from the Midwest. That is where Ohio Attorney General Marc Dann assigns much of the blame for the state's record mortgage-foreclosure rate -- a mess he calls "the largest financial scam in American history."

The 45-year-old Democrat has pursued several mortgage cases closer to home, delaying foreclosures involving **New Century Financial Corp.**, a home lender now operating under bankruptcy-court protection. He has sued more than a dozen lenders and brokers for allegedly inflating home appraisals and engaging in other practices that misled troubled homeowners.



Ohio's attorney general, Marc Dann, acts as a 'bad cop' against the mortgage industry.

Mr. Dann, a former high-school football player who is known for his determination -- and the occasional volatile outburst -- also has broadened his investigation to Wall Street. He is focusing on how investment banks packaged mortgages into securities and how credit-rating companies like **McGraw-Hill Cos.**' Standard & Poor's, **Moody's Corp.**'s Moody's Investors Service, and **Fimalac SA's** Fitch Ratings evaluated those securities.

The three firms downgraded hundreds of the mortgage-related bonds as the housing downturn grew more serious and low mortgage-underwriting standards became more apparent.

Mr. Dann, a onetime Gary Hart campaign staffer and divorce lawyer, says he is trying to fill a void left by federal regulators, who he says haven't thoroughly probed how mortgages were turned into securities and sold to investors. That could become a hot-button campaign issue next year in Ohio, a key electoral battleground with the highest home-foreclosure rate in the nation.

Mr. Dann has been active on other fronts, pursuing investor suits on behalf of Ohio's pension funds against **Time Warner Inc.**, **Fannie Mae** and **UnitedHealth Group Inc.** His office also has teamed up with seven states to collect information from **News Corp.**'s networking Web site, MySpace.com, about registered sex offenders that had used the site.

His campaign targeting the mortgage industry has been at the center of his efforts. "Everyone who helped create this crisis will be held accountable," Mr. Dann said during a Sept. 11 speech to a group of mortgage officials. "My job is to be the bad cop, and I'm comfortable with that role because I believe a terrible crime has been committed."

Mr. Dann says he wants to "punish" not only out-and-out criminal fraudsters, but also deep-pocketed parties that benefited from the problem and helped enable it.

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His investigations' roots reach back to a Cleveland campaign visit in 2006, when Cuyahoga County Treasurer Jim Rokakis suggested Mr. Dann focus on the housing crisis if he wanted to win a tight race for attorney general. When Mr. Dann started mentioning the problem in speeches, the subject drew more feedback than any other part of his speech, Mr. Dann recalls.

Mr. Dann won 53% of the vote. In office, he quickly assigned a well-known corporate lawyer he had hired to find creative ways to go after foreclosure problems. The two soon decided to include rating firms in their investigation.

In May, Mr. Dann warned rating firms that they could face civil penalties under Ohio's consumer-protection laws, strengthened this year. A couple of months later, a handful of Moody's representatives traveled to Columbus to visit Mr. Dann.

Mr. Dann was offered a seat at the head of the crowded table but turned it down in favor of sitting closer to his lawyers, according to people who attended. Mr. Dann and his colleagues said they were interested in rating companies because mortgage bonds that lost value amid the foreclosure problems wouldn't have been sold had rating firms given lower marks initially.

Moody's explained that it has a long history of objectively rating many types of bonds including mortgage securities.

Mr. Dann is one of several attorneys general focusing on the mortgage industry. The attorney general of New York, the Securities and Exchange Commission and the Committee of European Securities Regulators also are looking into these issues.

To his supporters, Mr. Dann is a welcome force. "Marc is sending the signal that there is a sheriff in the state of Ohio," Mr. Rokakis says. In the past, he says, "lawlessness reigned."

It is easy to draw parallels between Mr. Dann and New York Gov. Eliot Spitzer, who made a name for himself cracking down on faulty Wall Street stock research while an attorney general. Mr. Dann says he thought about framing a \$500 check he received during his campaign from Mr. Spitzer.

Unlike Mr. Spitzer, who took on big banks by releasing emails he had collected, Mr. Dann has yet to release any evidence on the rating firms or other Wall Street players -- something his detractors have pointed out. He has "condemned [rating firms] as aiders and abettors" of mortgage problems "without a full-fledged investigation," says Richard Morvillo, a partner with Mayer Brown LLP in Washington. Neither Mr. Morvillo nor his firm represent rating firms on the issues Mr. Dann is investigating.

Mr. Dann says his office has started collecting documents to shed light on the practices of rating firms. These may include compensation and expense records that could show how often Wall Street wines and dines rating-firm employees. The rating firms say they have done nothing inappropriate and have policies to manage potential conflicts of interest.

Both raters and banks benefit financially when a bond is issued, because each usually collects a fee only once the deal is completed. Since a low rating can kill a deal, both parties may have incentives to overlook problems, even in risky deals. The raters say prospective revenue doesn't influence the quality of ratings.

Mr. Dann says he hasn't decided yet whether his case against rating companies will try to get money for embattled homeowners or big pension funds that have lost money in mortgage bonds.

Some critics of Mr. Dann say he is focusing on the wrong issues.

"The big problem is that we have a dismal economy," says David Hansen, president of the conservative think tank the Buckeye Institute, who recommends lower taxes and spending to improve Ohio's job market.

Others have criticized Mr. Dann's appointments, saying he has shown favoritism to campaign backers. A spokesman for Mr. Dann denies this, saying the office has "established an accountable and transparent process" for appointments that saves money for state taxpayers.

Raised in the Cleveland suburb of Shaker Heights, Mr. Dann played center on his football team, despite injuries that sometimes landed him in the emergency room. His determination now shows up in other ways. Recently, he passed one of his criminal lawyers in the hall and asked: "Put anyone in jail today?"

Mr. Dann can be more brusque. When rehearsing a speech this year, he threw a lectern to the ground when he was unhappy with the text. The lectern broke, forcing Mr. Dann to replace it for \$300. In June, when Mr. Dann spotted a reporter outside a Barack Obama fund-raiser, the politician cursed the reporter for a story he had written, an episode caught on tape by a local television station.

After working on campaigns in the 1980s and 1990s, Mr. Dann opened a law office in a Youngstown, Ohio, strip mall, where he handled divorces and bankruptcies. He won his first significant election in 2004, to the state senate, where he became an outspoken critic of former Republican Ohio Gov. Bob Taft.

Since then, Mr. Dann's message has shifted from weeding out state corruption to helping homeowners by cracking down on mortgage abuses.

**Write to Aaron Lucchetti at [aaron.lucchetti@wsj.com](mailto:aaron.lucchetti@wsj.com)**<sup>1</sup>

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